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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,548	08/01/2000	ANTONIUS ADRIANUS ARNOLDUS SMITS	702-001034	8364

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EXAMINER
ROSSI, JESSICA

ART UNIT	PAPER NUMBER
1733	21

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)	
	09/555,548	SMITS, ANTONIUS ADRIANUS ARNOLDUS	
	Examiner	Art Unit	
	Jessica L. Rossi	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/13/03, RCE and Amendment E* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-21,23-29,31-33 and 37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-21,23-29,31-33 and 37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 6/13/03 for a RCE under 37 CFR 1.114 based on parent Application No. 09/555,548 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

2. This action is in response the Amendment dated 6/13/03. Claims 19-21, 23-29, 31-33, and 37 are pending.

3. The rejection of claims 19-21, 23, 25-26, 28-29, and 31-33 under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. (of record) in view of Keeler et al. (of record) as set forth in paragraph 5 of the previous office action, paper no. 17, has been withdrawn in light of Applicants arguments and the added limitation of a stationary holder.

4. The rejection of claims 19-21, 23, 25-26, and 28-29 under 35 U.S.C. 103(a) as being unpatentable over Tomsovic (of record) in view of Keeler et al. as set forth in paragraph 8 of the previous office action has been withdrawn due to the added limitation of a stationary holder.

5. The rejection of claims 19-21, 23, 25-26, and 28-29 under 35 U.S.C. 103(a) as being unpatentable over Konstantin (of record) in view of Keeler et al. as set forth in paragraph 12 of the previous office action has been withdrawn due to the added limitation of a stationary holder.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 19-21, 23-29, 31-33, and 37 **stand** rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to claim 19, and as set forth in paragraph 3 of the previous office action, the present specification does not have support for "a stock of objects, wherein each object may have a different thickness." According to the specification, the apparatus is capable of affixing different kinds of objects to moving products (p. 2, lines 1-5). However, the specification does not teach (1) placing these "different" objects in the holder at the same time and affixing them to products during a continuous cycle of the affixing means and it does not teach (2) these "different" objects having varying thickness. This is clearly evidenced by the example on p. 7 where Applicants teach a stock of shampoo bags 6, having the **same thickness**, being placed **alone** in the holder and then being attached to moving products using the affixing means of the present invention (lines 17-20). Applicants are asked to clarify.

Applicants are relying on Figure 1 to show that objects 6 have different thicknesses. However, one skilled in the art looking at Figure 1 clearly would not be able to determine if objects 6 have different thicknesses. Furthermore, the Figures in an application are only working drawings which are not required to be drawn to specification and therefore cannot be relied upon to accurately and precisely depict every aspect of the claimed invention.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 19, 21, 23-25, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geyser et al. (US 4293365) in view of Shimizu et al. (US 5489360), or alternatively, Shimizu in view of Geyser.

With respect to claim 19, Geyser is directed to a device for affixing labels L to products T moving in a row along conveyor C (Figure 1). The reference teaches a stationary holder 12 for the labels, affixing means 10 having suction nozzles 66, 68 on carriers 58, 60, respectively, for removing a label from the holder and moving the label (Figure 1; column 1, lines 45-52; column 2, lines 61-65). The affixing means rotates and affixes the label to a moving product during this rotation (Figure 1; column 2, lines 29-51; column 3, lines 55-58). The carriers are moveable in a radial direction with respect to the axis of rotation of the affixing means; note carriers extend radially outward to bring suction nozzle into contact with label in holder (Figures 6-8; column 3, line 55 – column 4, line 5).

The examiner points out that the material worked upon (object/label) and the manner by which the apparatus cooperates with the material worked upon gets no weight in the apparatus. However, the reference does teach the carrier being positioned in alignment with the label in the holder and being movable in the radial direction to attach the nozzle to the label for removing the label from the holder (Figures 6-8). The reference also teaches the nozzle directly facing the label in the holder (Figures 6-8).

The reference is silent as to the affixing means being capable of being driven intermittently between rotation and standstill. One skilled in the art reading the reference as a whole would have appreciated that the affixing means of Geyser is capable of being driven intermittently between rotation and standstill, even though such is not the preferred mode of operation (column 4, lines 47-49).

The reference is also silent as to the carrier being in alignment with the label in the holder during standstill of the affixing means and the carrier being movable in the radial direction with respect to the axis of rotation for attaching the nozzle to the label and removing it from the holder during standstill; *it being noted that such limitations refer to the manner by which the apparatus cooperates with the material worked upon and therefore gets no weight.*

However, it is known to affix labels 14 to products 12 using an affixing means 22 comprising suction nozzles 49 (Figure 9; column 7, lines 19-21) located on carriers 41 wherein the affixing means is capable of rotary movement and being driven intermittently between rotation and standstill so that carriers 41 can remove labels 14 from a holder at station S1 during standstill, as taught by Shimizu (Figures 4 and 9; column 2, lines 57-59; column 5, lines 51-57; column 8, line 66; column 9, lines 4-5). The reference also teaches the carriers being moveable in a radial direction with respect to the axis of rotation of the affixing means for applying a label to a product at stations S6 (Figure 4; column 6, lines 37-41 and 65-66; column 7, lines 1-2 and 17-20; column 8, line 66 - column 9, line 5) during standstill of the affixing means (column 5, lines 51-56). The reference teaches such intermittent rotation lending itself to high speed and high accuracy (column 2, line 45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to drive the affixing means of Geyser intermittently between rotation and standstill so that the nozzles can remove labels from the holder during standstill because such is known in the art, as taught by Shimizu, and this would allow for accurate removal and high speed application of the labels.

Shimizu teaches the holder comprising supply reel 30 and peeler 35 wherein the label 14 having adhesive thereon is peeled off base tape 16a and adsorbed onto carrier 41 (Figure 4; column 5, lines 15-18 and 31-35). Geyser, on the other hand, teaches the labels being in the holder without having any adhesive thereon and using applicator 110 to apply adhesive to the labels after their removal from the holder (Figure 1; column 4, lines 21-24).

Alternatively, it would have been obvious to the skilled artisan at the time the invention was made to use a stationary holder for containing adhesive-free labels wherein an applicator applies adhesive to same after their removal from the holder as an alternative to the holder of Shimizu because such is known in the art, as taught by Geyser, and one reading the Shimizu reference as a whole would have appreciated that the type of holder and/or label is not critical to the invention wherein only the expected results would have been achieved. Furthermore, Shimizu teaches the carriers being movable outward in the radial direction during standstill of the affixing means at station S6, where a label is applied to a product (see above); however, the skilled artisan would have appreciated that the carriers would be capable of radial movement during standstill of the affixing means at station S1, where a label is removed from the holder.

Regarding claim 21, selection of a particular diameter for the nozzles of Geyser and Shimizu would have been within purview of the skilled artisan at the time the invention was made depending on the types of objects being removed by the nozzle.

Regarding claim 23, both Geyser (Figure 1) and Shimizu (Figure 4) teach one of the carriers being located at the holder while another carrier has removed a label from the holder but not yet affixed it to the product.

Regarding claim 24, Geyser teaches glue applicator 110 for applying glue to the label engaged by the carrier (Figure 3; column 4, lines 21-23).

Regarding claim 25, both Geyser and Shimizu are silent as to an electric motor whose rotational speed is controlled on the basis of signals from a pulse generator wherein the signals are a measure of speed of movement of the products. Selection of a particular mechanism for rotating the affixing means would have been within purview of one of ordinary skill in the art at the time the invention was made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to control the speed of the affixing means by detecting the speed of the products in order to align the nozzles with the products for accurate placement of the labels onto the products because arrangements for maintaining a timed relationship between the speeds of moving articles and machine elements are well known in the art, as taught by Geyser (column 3, lines 30-34). Selection of the mechanism for detecting the speed would have been within purview of one of ordinary skill in the art at the time the invention was made.

Regarding claim 37, Shimizu teaches the affixing means being at standstill at various processing stations along its rotation path (column 5, lines 50-55). It would have been obvious to the skilled artisan at the time the invention was made to have the affixing means of Geyser and

Shimizu be at standstill during application of glue via the glue applicator because performing various operations on the label engaged by the carrier while the affixing means is at standstill is know in the art, as taught by Shimizu, and this would allow for precise coating of the label.

10. Claims 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geyser et al. and Shimizu et al., or alternatively Shimizu and Geyser as applied to claim 19 above, and further in view of Keeler et al. '485 (of record).

Regarding claim 20, selection of an arrangement for the carriers on the affixing means would have been within purview of one of ordinary skill in the art at the time the invention was made. However, it is known in the art to include one or more carriers wherein the carriers are positioned a uniform distance apart in a circle around the axis of rotation such that one of the carriers is near the holder during standstill while the place of affixing the object to the product is centrally located between two other carriers, as taught by Keeler et al. (Figure 2; column 4, lines 26-29; column 5, lines 10-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the carriers of Geyser and Shimizu in the manner taught by Keeler et al. because only the expected results would have been achieved.

Regarding claim 26, Geyser and Shimizu are silent as to control means for stopping the affixing means. It would have been obvious to the skilled artisan to include control means for putting the affixing means into standstill mode because such is known in the art, as taught by Keeler (column 4, lines 51-60) where only the expected results would have been achieved.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geyser et al. and Shimizu et al., or alternatively, Shimizu and Geyser as applied to claim 19 above, and further in view of Voltmer et al. '608 (of record).

Regarding claim 27, Geyser and Shimizu are silent as to control means provided with detection means for detecting a moving product approaching the affixing means. It is know to affix objects to products using an affixing apparatus wherein control means is provided for sensing an approaching product, as taught by Voltmer '608 (page 2, lines 63-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use control means associated with the devices of Geyser and Shimizu for detecting a moving product approaching the affixing means to initiate rotation of the affixing means so that a carrier engaging a label moves into proper alignment with the product.

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12. Claims 28-29 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. and Geyser et al. as applied to claim 19 above, and further in view of Voltmer et al. '459 (of record) and Keeler et al. '485.

Regarding claim 28, Shimizu is silent as to these limitations. It is know in the art to use rotating affixing means to attach objects to moving products wherein the affixing means 56 comprises carriers 60 that are moveable in the radial direction with respect to the axis of rotation, as taught by Voltmer (Figure 1; column 3, lines 42-44; column 4, lines 26-47). Voltmer also teaches separate shafts driving the affixing means and carriers (column 3, lines 27-40). It would have been obvious to use separate shafts for the affixing means and carriers of Shimizu because such is known in the art, as taught by Voltmer, and this allows for separate control of the same.

It would have also been obvious to the skilled artisan to use an index mechanism to drive the shafts between standstill and rotation because such is known in the art, as taught by Keeler (column 4, lines 51-65). Arrangement of these shafts and their operating patterns with respect to

each other would have been within purview of one of ordinary skill in the art at the time the invention was made depending on the desired operating functions of the apparatus.

Regarding claim 29, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an ingoing shaft of the index mechanism drive the shaft for driving the carriers during standstill of the affixing means to allow for controlled velocity, acceleration, and deceleration of the carriers (Keeler; column 5, lines 1-7).

Regarding claims 31-33, a particular configuration for the ingoing shaft would have been within normal design practice of the skilled artisan; it being noted that such features (cams, shafts, drivers) are suggested by Voltmer et al. (Figure 2; columns 3-4), Shimizu (column 5, lines 45-47 and 50-55), and Keeler (column 5, lines 1-5).

Response to Arguments

13. Applicant's arguments filed 6/13/03 have been fully considered but they are not persuasive.

14. On pages 2-3 of the arguments, Applicants argue that Figure 1 illustrates the different thicknesses of each object 6 and therefore provides the support necessary to overcome the 112 1st paragraph new matter rejection set forth in the previous office action.

Applicants are invited to reread the rejection set forth in paragraph 7 of the present office action. Once again, Applicants are reminded that the Figures are only working drawings which are not required to be drawn to specification and therefore cannot be relied upon to accurately and precisely depict every aspect of the claimed invention. Furthermore, one skilled in the art looking at Figure 1 clearly would not be able to determine if objects 6 have different thicknesses.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **703-305-5419**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jessica L. Rossi
Patent Examiner
Art Unit 1733

jlr
July 22, 2003

Michael W. Ball
Supervisory Patent Examiner
Technology Center 1700